



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

APR - 9 2014

**VIA FIRST CLASS MAIL**

John Carter  
Director of Compliance and General Counsel  
Pre Con, Inc.  
6700 Court Yard Road  
Chester, VA 23831

**Re: Consent Agreement and Final Order, Docket No. RCRA-03-2014-0065  
Payment Received**

Dear John:

I have received a copy of the electronic funds transfer from Pre Con, Inc. for \$101,375.00, which the company sent to EPA in accordance with the terms of the Consent Agreement and Final Order. Thank you for your prompt payment.

I am glad that we were able to bring this matter to a resolution. If you have questions about the requirements of the Consent Agreement and Final Order, please contact me at (215) 814-2615.

Sincerely,

Natalie L. Katz  
Senior Assistant Regional Counsel

Enclosure

cc: Steve Forostiak  
Regional Hearing Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

August 7, 2013

**VIA OVERNIGHT MAIL**

John M. Carter  
Pre Con, Inc.  
Director of Compliance and General Counsel for  
The Wauford Group  
6700 Court Yard Road  
Chester, VA 23831

Re: Pre Con, Inc. Facility in Petersburg, VA

Dear Mr. Carter:

The U.S. Environmental Protection Agency, Region III ("EPA") is seeking to determine the entitlement to confidentiality of information regarding Pre Con, Inc. ("Pre Con") that is in EPA's possession. EPA conducted a Compliance Evaluation Inspection of Pre Con's facility located at 221 South Perry Street and 321 Brown Street, in Petersburg, Virginia (collectively, the "Facility") on September 10 - 11, 2012. Pre Con has claimed part of the information collected by EPA during this inspection as confidential business information ("CBI"). This information includes the EPA Inspector's Report and photos taken at the Facility. In addition, EPA has a copy of a letter sent by Pre Con to Justin Young of EPA, dated September 26, 2012, with attachments, which responds to an information request sent previously by EPA to Pre Con. Copies of these documents are enclosed.

This letter is to notify you that the EPA, Region III Office of Regional Counsel will be making a final confidentiality determination concerning this information. If you feel that some or all of the above information is entitled to confidential treatment, please specify which portions of the information you consider confidential. Please attach a copy of those pages with brackets around the text or photograph that you claim to be CBI. Any information not specifically identified as subject to a confidentiality claim will be disclosed to the public without further notice to you. For each item or class of information that you identify as being subject to your claim, please answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the business asserts that the information is voluntarily submitted information, whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
8. If you believe the information to be (a) trade secret(s), please so state and explain the reason for your belief. Please attach such copies of those pages with brackets around the text that you claim to be (a) trade secret(s).
9. Any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that you bear the burden of substantiating your confidentiality claim(s). Conclusory allegations will be given little or no weight in the determination. If you wish to claim any of the information in your response as confidential, you must mark the response **"CONFIDENTIAL"** or with a similar designation, and must bracket all text so claimed. Information so designated will be disclosed by EPA only to the extent allowed by, and by means

of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

Your comments must be postmarked or hand delivered to me at

Natalie Katz (3RC30)  
U.S. Environmental Protection Agency, Region III  
Office of Regional Counsel  
1650 Arch Street  
Philadelphia, PA 19103-2029

or e-mailed to [katz.natalie@epa.gov](mailto:katz.natalie@epa.gov), by the 15th working day after your receipt of this letter. You may seek an extension of time to submit your comments to this office, but the request must be made before the end of the 15-day period. Except in extraordinary circumstances, no extension will be approved. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information.

Should you have any questions concerning this matter, please call me at (215) 814-2615.

Sincerely,

A handwritten signature in black ink, appearing to be 'N. Katz', with a large, sweeping flourish extending to the right.

Natalie L. Katz

Enclosures

cc: Steve Forostiak (3LC70) (without enclosures)  
Justin Young (3EC10) (with enclosures)

Documents List  
Pre Con, Inc.

1. Inspection Report from RCRA Compliance Evaluation Inspection Conducted by EPA Representative on September 10-11, 2012 and attachments.
2. Photographs taken during Compliance Evaluation Inspection.
3. Pre Con Response Letter to Justin Young of EPA, September 26, 2012, and attachments



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**VIA OVERNIGHT MAIL AND EMAIL**

John Carter  
Director of Compliance and General Counsel  
Pre Con, Inc.  
6700 Court Yard Road  
Chester, VA 23831

**DEC 16 2013**

**Re: Pre Con, Inc.  
220 South Perry Street and 321 Brown Street, Petersburg, Virginia  
EPA ID No. VAD 988 207 148  
Request for Further Information and Opportunity to Show Cause**

Dear Mr. Carter:

This letter is written in regard to a Compliance Evaluation Inspection ("Inspection") of the facility, located at 220 South Perry Street and 321 Brown Street, Petersburg, Virginia 22803 (the "Facility"), which was conducted by an inspector from the U.S. Environmental Protection Agency ("EPA"). The Facility is owned and operated by Pre Con, Inc. ("Pre Con"). A representative of EPA inspected the Facility on September 10 and 11, 2012, to examine the Facility's compliance with the authorized Virginia Hazardous Waste Management Regulations ("VaHWMR"), as codified at VaHWMR 9 VAC 20-60 *et seq.*, Subtitle C of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901 *et seq.*, and the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273. Following the Inspection, representatives of EPA and Pre Con have had several discussions and exchanged correspondence. Pre Con sent to EPA a letter, dated September 26, 2012, with further information about the Facility ("Response Letter").

The Facility is predominantly a research facility with pilot scale manufacturing capabilities, mostly for developmental productions of ballistic resistant materials. Pre Con performs these activities pursuant to a contract with Honeywell International Inc. ("Honeywell"). Pre Con and Honeywell have claimed that much of the materials, manufacturing processes, and testing capabilities are Confidential Business Information, on the grounds that they are trade secrets and/or related to technologies and products that are export controlled as a result of their use by the U.S. military. For this reason, this letter only outlines the violations that EPA alleges were observed at the Facility, and the corresponding penalty. Additional factual information will be provided when representatives of Pre Con meet with representatives of EPA.

Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA's regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA. Penalties are calculated in accordance with Section 3008(g) of RCRA and the RCRA Civil Penalty Policy (June 2003) (copy enclosed, along with inflation adjustment charts). Any person who violates any requirement of an authorized state hazardous waste management program is subject to a civil monetary penalty of not more than \$25,000 for each day of violation, adjusted upward to \$37,500 by the Civil Monetary Penalty Inflation Adjustment Rules, 69 Fed. Reg. 7121 (Feb. 13, 2004), and 72 Fed. Reg. 75340 (Dec. 11, 2008). (There have been subsequent increases to civil penalties as a result of inflation for violations occurring after December 6, 2013. These increases are not applicable in this case.)

The Commonwealth of Virginia ("Virginia") has received federal authorization to administer a Hazardous Waste Management Program (the "Virginia Hazardous Waste Management Program") *in lieu* of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The VaHWMR were federally authorized, effective December 18, 1984 (49 Fed. Reg. 47391 (December 4, 1984)), by EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, and subsequently were re-authorized effective: August 13, 1993 (58 Fed. Reg. 32885 (June 14, 1993)); September 29, 2000 (65 Fed. Reg. 46607 (July 31, 2000)); June 20, 2003 (68 Fed. Reg. 36925 (June 20, 2003)), July 10, 2006 (71 Fed. Reg. 27216 (May 10, 2006)); July 30, 2008 (73 Fed. Reg. 44168 (July 30, 2008)), and again November 4, 2013 (78 Fed. Reg. 54178 (September 3, 2013)), with minor changes not relevant in this matter). The authorized VaHWMR are currently codified at 9 VAC 20-60, *et seq.* The VaHWMR that were effective at the time of the violations in this matter were those authorized in 2008.

Based upon the information currently available to EPA, EPA believes that there is a sufficient basis for the issuance of an Administrative Complaint seeking assessment of a civil penalty, and containing a Compliance Order requiring Pre Con to comply with RCRA. Prior to issuing an Administrative Complaint, EPA is providing Pre Con with an opportunity to confer with EPA to show cause as to any reasons why an Administrative Complaint should not be issued for the violations identified below. EPA is also inviting Pre Con to meet with EPA to discuss the possibility of entering into a pre-filing settlement of the matter in order to avoid possible litigation.

### **I. EPA Finding of RCRA Violations**

EPA has identified the following alleged RCRA violations at the Facility. The violations were found in several areas of the Facility where Pre Con manages hazardous waste. At the time of the Inspection, the Facility stored a variety of hazardous wastes in several different types of containers, including large totes, 55-gallon drums and smaller containers. Some of the containers, and their associated piping and equipment, contained or were in contact with a hazardous waste with 10% or more organic concentration.

**1. Operating a Treatment, Storage, and Disposal Facility (“TSD Facility”) without a Permit, in Violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 9 VAC 20-60-270 (incorporating by reference 40 C.F.R. § 270.1(b)).**

**a. TSD Facility Permit Requirement**

Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility. During the September 2012 Inspection, Pre Con was in violation of these provisions by operating a hazardous waste treatment, storage or disposal (“TSD”) facility without a permit or interim status.

**b. Potential Exemptions**

Pursuant to 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34(a), (b), and, *inter alia*, Subparts D, I, J, AA, BB, and CC of 40 C.F.R. Part 265 as set forth below, large quantity generators of hazardous waste who accumulate hazardous waste in containers, tanks, drip pads, or containment buildings on-site for less than ninety (90) days are exempt from the requirement to obtain a permit for such accumulation, as long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including the requirements of 40 C.F.R. § 262.34(a)(2) and (3). These provisions require that the date upon which each period of accumulation of hazardous waste begins is clearly marked and visible for inspection on each container, and that each container is labeled or marked clearly with the words, “Hazardous Waste.”

In addition, 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34(c), provides that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers if the containers are kept at or near the point of generation, under the control of the operator, and are marked with the words “Hazardous Waste,” or with any other words that identify the contents of the containers.

**c. The Pre Con Facility did not Qualify for the Exemptions because of its Failure to Comply with all of the Conditions of these Exemptions**

Pre Con owns and operates the Facility and generates hazardous waste there. From 2006, when Pre Con began research and development at the Facility, until at least the time of the September 2012 Inspection, Pre Con was a large quantity generator at the Facility. As explained above, at the time of the Inspection, Pre Con stored a variety of hazardous wastes at the Facility in several different types of containers. Pre Con may have attempted to comply with the generator accumulation exemption to the permit requirement, found in 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34(a), and/or the satellite accumulation exemption also in 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34(c)(1). However, from at least September 2007 (5 years prior to the Inspection) through



the time of the Inspection in September 2012, Pre Con did not qualify for these exemptions because of its failure to comply with all of the conditions of these exemptions.

At the time of the Inspection, several areas that Pre Con considered to be "satellite accumulation areas" failed to meet the applicable requirements of 40 C.F.R. § 262.34(c)(1) because the containers were not clearly labeled with the words "Hazardous Waste," or with other words that identify the contents of the containers, as required by 9 VAC 20-60-262. These areas include:

- a. the Solvent 1 Containment Shed.<sup>1</sup> See Inspection Report, Attachment # 1, pp. 4 - 5; Photo 23.;
- b. Eden Building loading dock/R&D Waste Storage Area - see Inspection Report, Attachment # 1, p. 5; Photo 27. In Pre Con's Response Letter, Pre Con admitted that the drum was not originally labeled. See Response Letter, p. 1; and
- c. Another manufacturing area - See Inspection Report, Attachment # 1, middle of p. 6; Photo 41.

In addition, at the time of the Inspection, and during the preceding 5 years, Pre Con failed to qualify for the 90-day storage permit exemption because several other hazardous waste storage units, otherwise subject to RCRA Subpart C, failed to meet the following requirements in 40 C.F.R. § 262.34(a):

- d. Waste "Solvent 1," stored at the Facility, is a hazardous waste with organic concentrations of at least 10% percent by weight. Therefore, equipment that contacts or contains waste Solvent 1 is subject to the requirements of 40 C.F.R. Part 265, Subpart BB. This conclusion is confirmed by the Memorandum from One Environmental Group to Pre Con, dated November 26, 2013.
- e. Pre Con failed to perform an analysis of which equipment was containing or in contact with waste Solvent 1 (and therefore subject to the requirements of 40 C.F.R. Part 265, Subpart BB), as required by 9 VAC 20-60-265.A, which incorporates by reference 40 C.F.R. § 265.1063(d) of Subpart BB. See Inspection Report, Attachment # 1, pp. 4-5; Photos 17-22; Response Letter, p. 1 (Same as Violation # 2, failure to perform analysis);
- f. Pre Con failed to test monthly for leaks the equipment containing or in contact with waste Solvent 1 (which is subject to the requirements of 40 C.F.R. Part 265, Subpart BB), as required by 9 VAC 20-60-265.A, which incorporates by reference 40 C.F.R. §§ 265.1057 and 1063 of Subpart BB. See Inspection Report, Attachment # 1, pp. 4-

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<sup>1</sup> A solvent, claimed by Pre Con and Honeywell to be CBI, will be referred to as "Solvent 1."

5; Photos 17-22; Response Letter, p. 1 (Same as Violation # 3, failure to monitor monthly for leaks);

- g. Pre Con failed to mark each piece of equipment containing or in contact with the hazardous waste Solvent 1 (which is subject to the requirements of 40 C.F.R. Part 265, Subpart BB), as required by 9 VAC 20-60-265.A, which incorporates by reference 40 C.F.R. § 265.1050(c). *See* Inspection Report, Attachment # 1, p. 4 under “Solvent 1 Containment Shed”; Photos 17-22; Response Letter, p. 1. Same as Violation #4 (failure to mark);
- h. Pre Con failed to record in the Facility operating record the identification numbers for each piece of equipment containing or in contact with the hazardous waste Solvent 1, which is subject to the requirements of 40 C.F.R. Part 265, Subpart BB, as required by 9 VAC 20-60-265.A, which incorporates by reference 40 C.F.R. §§ 265.1064(b). *See* Inspection Report, Attachment # 1, p. 4 under “Solvent 1 Containment Shed”; Photos 17-22; Response Letter, p. 1. Same as Violation # 5 (failure to record in facility operating record ID numbers for each piece of equipment);
- i. For the weeks of September 2, 2009 and December 30, 2009, Pre Con failed to inspect the Solvent 1 waste storage area, as required by 9 VAC 20-60-265.A, which incorporates by reference 40 C.F.R. § 265.174. *See* Inspection Report, p. 5, under “Weekly Inspections”; and Attachment 7, “Tote Container Hazardous Waste Storage Area Weekly Inspection Sheets.” Same as Violation 7 (failure to perform weekly inspections of hazardous waste storage area).

These conditions disqualify Pre Con from benefitting from the generator accumulation exemption for those areas, as well as the satellite accumulation exemption. As a result, from at least September 2007 through September 2012, Pre Con owned and operated several hazardous waste storage units that were subject to permitting requirements, without a permit or interim status, in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 925(a) and (e), and 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b).

**PENALTY: \$ 9,210**

Potential for Harm – Moderate    Extent of Deviation – Moderate

**2. Failure to Determine Whether Equipment Contains or Contacts a Hazardous Waste with 10% or More Organic Concentration, as Required by 9-VAC 20-60-265.A (incorporating by reference 40 C.F.R. § 265.1063(d))**

9-VAC 20-60-265.A, which incorporates by reference the federal hazardous waste regulation at 40 C.F.R. § 264.1063(d), requires owners and operators of a hazardous waste treatment, storage or disposal facility to determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with an organic concentration that equals or

exceeds 10% by weight. This determination is made using a methodology set forth in 40 C.F.R. § 260.11, or through application of knowledge of the nature of the hazardous waste stream or the process by which it was produced. Here, Pre Con had general knowledge that Solvent 1 waste was a hazardous waste with 10% or more organic concentration. However, Pre Con did not perform an analysis of which particular pieces of equipment “contained” or “contacted” the waste, within the meaning of the regulations. *See* Inspection Report, Attachment #1, p. 4. Therefore, Pre Con failed to determine, for each piece of equipment, whether the equipment contained or contacted a hazardous waste with 10% or more organic concentration, in violation of 9-VAC 20-60-265.A.

**PENALTY: \$13,455**

Potential for Harm – Moderate    Extent of Deviation – Major

**3. Failure to Monitor Monthly Valves Subject to Part 265, Subpart BB, as Required by 9-VAC 20-60-265.A (incorporating by reference 40 C.F.R. § 265.1057 and 40 C.F.R. § 265.1063)**

9 VAC 20-60-265.A, which incorporates by reference the federal hazardous waste regulations at 40 C.F.R. §§ 265.1057 and 265.1063 of Subpart BB, requires that each valve in gas/vapor or light liquid service shall be monitored monthly to detect leaks by the methods specified in 40 C.F.R. § 264.1063(b) and in compliance with paragraphs (b) through (e) of 40 C.F.R. § 264.1057. Through observations made during the Inspection, and by reviewing subsequent correspondence, EPA inspectors determined that Pre Con failed to test for leaks, on a monthly basis, a number of valves containing or in contact with Solvent 1, which is a hazardous waste with 10% or more organic concentration, and therefore subject to 40 C.F.R. Part 265 Subpart BB. *See* Inspection Report, Attachment # 1 under “Solvent 1 Containment Shed” at 4-5; Photos 17-22; Response Letter at 1. While representatives from EPA and Pre Con are in the process of discussing this issue, and evaluating the extent of non-compliance, it is possible that as many as 19 valves should have been monitored. *See* Pre Con’s Letter to EPA, dated December 4, 2013. Therefore, Pre Con failed to monitor monthly a number of valves in gas/vapor or light liquid service, in violation of 9 VAC 20-60-265.A.

**PENALTY: \$13,455 gravity base + (multi-day \$1,845 x 59 months) =  
\$13,455 + 108,855 = \$ 122,310**

Potential for Harm – Moderate    Extent of Deviation – Major

**4. Failure to Mark Each Piece of Equipment Subject to Part 265, Subpart BB, as Required by 9-VAC 20-60-265.A (incorporating by reference 40 CFR 265.1050(c))**

9 VAC 20-60-265.A, which incorporates by reference the federal hazardous waste regulation at 40 C.F.R. § 265.1050(d) of Subpart BB, requires that every piece of equipment regulated under Subpart BB shall be marked in such a manner that it can be readily distinguished from other pieces of equipment. At the time of the Inspection, numerous pieces of equipment at

the Facility were subject to Subpart BB, but were not marked or labeled. Therefore, the Pre Con failed to mark many pieces of equipment subject to Subpart BB in a manner such that they can be distinguished from other pieces of equipment, in violation of 9 VAC 20-60-265.A.

**PENALTY: \$13,455**

Potential for Harm – Moderate    Extent of Deviation – Major

**5. Failure to Record Each Piece of Equipment Subject to Subpart BB in the Facility Operating Record, as required by 9 VAC 20-60-265.A (incorporating by reference 40 C.F.R. § 265.1064(b)).**

9 VAC 20-60-265.A, which incorporates by reference the federal hazardous waste regulation at 40 C.F.R. § 265.1064(b)(1)(i), requires that owners and operators record in the facility operating record, for each piece of equipment to which Subpart BB of Part 265 applies, the equipment identification number and hazardous waste management unit identification, among other information. At the time of the Inspection, Pre Con failed to keep records of the identification numbers for each piece of equipment containing or in contact with hazardous waste Solvent 1. *See* Inspection Report, Attachment # 1, p. 4, under “Solvent 1 Containment Shed”; Photos 17-22; Response Letter, p. 1. Therefore, the Pre Con failed to record in the Facility record information about equipment subject to Subpart BB, in a manner such that it can be distinguished from other pieces of equipment, in violation of 9 VAC 20-60-265.A.

**PENALTY: \$13,455**

Potential for Harm – Moderate    Extent of Deviation – Major

**6. Failure to Make a Waste Determination, as Required by 9 VAC 20-60-262.A (incorporating by reference 40 C.F.R. § 262.11).**

9 VAC 20-60-262, which incorporates by reference the federal hazardous waste regulation at 40 C.F.R. § 262.11, requires a person generating a solid waste to determine whether that waste is a hazardous waste using one of the methods set forth in 40 C.F.R. Part 261, or an equivalent method approved by EPA. At the time of the Inspection, the Inspector observed that Pre Con had not made a hazardous waste determination for a container of rejected material that was stored in the Lab Area. *See* Inspection Report, Attachment # 1, p. 6, under “Lab Area” at 6; Photo 43. In addition, Pre Con managed and discarded aerosol containers as regular waste without first making a hazardous waste determination. *See* Inspection Report, Attachment # 1, p. 8, and Attachment # 10; Response Letter, p. 2. Therefore, Pre Con failed to make a hazardous waste determination for two waste streams, in violation of 9 VAC 20-60-262.

**PENALTY: \$ 1,420**

Potential for Harm – Minor    Extent of Deviation – Moderate

**7. Failure to Perform Weekly Inspections of Hazardous Waste Storage Areas, as Required By 9 VAC 20-60-265.A (incorporating by Reference 40 C.F.R. § 265.174)**

9 VAC 20-60-265.A, which incorporates by reference the federal hazardous waste regulation at 40 C.F.R. § 265.174, requires that, at least weekly, owner or operator must inspect areas where containers are stored. A review of Pre Con's inspection records revealed that, for the weeks of September 2, 2009 and December 30, 2009, Pre Con failed to inspect the Solvent 1 waste storage area. *See* Inspection Report, p. 5, under "Weekly Inspections"; Attachment 7, "Tote Container Hazardous Waste Storage Area Weekly Inspection Sheets." Therefore, Pre Con failed to perform weekly inspections of this storage area for two weeks in 2009, in violation of 9 VAC 20-60-265.A.

**PENALTY: \$ 430 + \$ 150 (multi-day) = \$ 580**

Potential for Harm – Minor    Extent of Deviation – Minor

**8. Failure to Have Required Content in the Facility Contingency Plan, as Required by 9 VAC 20-60-265.A (incorporating by Reference 40 C.F.R. § 265.52(c), (e) and (f)).**

9 VAC 20-60-265.A, which incorporates by reference the federal regulation at 40 C.F.R. §§ 265.52 (c), (e) and (f), requires that the Facility Contingency Plan must, among other things: describe arrangements agreed to by the local authorities to coordinate emergency services, list all emergency equipment at the facility with their locations, and include an evacuation plan. At the time of the Inspection, Pre Con's Facility Contingency Plan failed to contain these elements. *See* Inspection Report, p. 5, under "Contingency Plan"; Attachment 5, "Facility's Emergency (Spill) Response and Contingency Plan." Therefore, at the time of the Inspection, Pre Con failed to have an updated Facility Contingency Plan with all required elements, in violation of 9 VAC 20-60-265.A.

**PENALTY: \$ 9,210**

Potential for Harm – Moderate    Extent of Deviation – Moderate

**TOTAL PENALTY = \$ 183,095**

**Additional Concerns**

In addition to correcting the violations described above, Pre Con is required to notify Virginia Department of Environmental Quality of the exact location of every accumulation area at the Facility, as required by 9 VA 20-60-262.B.4. Also, note that pursuant to 40 C.F.R. § 262.34(c)(1), an unpermitted satellite accumulation area should not contain waste in excess of 55 gallons.

### Request to Show Cause

EPA has determined that the issuance of an Administrative Complaint seeking assessment of a civil penalty concerning the aforesaid violations and issuance of a Compliance Order requiring compliance with the VaHWMR is the appropriate enforcement response in this matter.

Prior to issuing this Administrative Complaint, however, EPA is providing Pre Con the opportunity to confer with the Agency and show cause as to why an Administrative Complaint should not be issued by the Agency in this matter. **EPA is requesting that Pre Con contact the Agency within ten (10) calendar days of receipt of this letter to discuss this matter.** This opportunity will be made available at a meeting with EPA in Philadelphia on a mutually convenient date or by telephone conference. To facilitate settlement discussions and to supplement EPA's understanding of the compliance activities taken by Pre Con concerning these alleged violations, EPA requests that Pre Con submit such additional documentation which may be in its possession or control that identifies any and all measures taken to address the violations identified herein. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed.

Please contact Natalie Katz, Senior Assistant Regional Counsel of the Office of Regional Counsel, US EPA, Region III, at (215) 814-2615, or have someone on Pre Con's technical staff contact Steve Forostiak of the RCRA Office of Land Enforcement at (215) 814-2136, to discuss this matter further.

Please be advised, however, if this matter is not resolved within sixty days after your receipt of this letter, EPA may proceed with the issuance of an Administrative Complaint.

If, in the course of discussing this matter with the Agency, Pre Con intends to submit documents or information to EPA, please be advised that Pre Con is entitled to assert a claim of business confidentiality covering any part or all of the information Pre Con submits to EPA pursuant to this Request to Show Cause, in the manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the information is submitted to EPA, EPA may make this information available to the public without further notice to Pre Con.

Pre Con must also include as part of any submission of information or documentation to EPA pursuant to this Request to Show Cause the following certification signed and dated by a responsible corporate officer of your corporation:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response to Information Request and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and complete. I recognize that there

are significant penalties for submitting false and/or misleading information, including the possibility of fine and/or imprisonment."

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Please be advised that certain companies may be required to disclose to the Securities and Exchange Commission the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under Federal, State or local environmental laws. Please see the attached "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings," (Enclosure 2) for more information about this SEC requirement.

Additionally, please find enclosed a document entitled "Information Sheet" concerning Small Business Resources and the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve Pre Con of its obligation to respond in a timely manner to an EPA enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve Pre Con's legal rights, Pre Con must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

Sincerely,



Carol Amend, Associate Director  
Office of Land Enforcement

cc: Natalie Katz (3RC30)  
Steve Forostiak (3LC70)  
Justin Young (3EC10)

## **REFERENCES AND ENCLOSURES**

1. RCRA Civil Penalty Policy (June, 2003),  
<http://www2.epa.gov/enforcement/resource-conservation-and-recovery-act-rcra-civil-penalty-policy>  
with adjusted penalty policy matrices based on the Civil Monetary Penalty Inflation Adjustment Rule.
2. Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings
3. Small Business Resources and the Small Business Regulatory Enforcement and Fairness Act ("SBREFA") Fact Sheet.
4. Virginia Hazardous Waste Management Regulations authorized by EPA pursuant to RCRA Section 3006, 42 U.S.C. § 6926 (enclosed).





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1350 Arch Street  
Philadelphia, Pennsylvania 19103-2029

VIA UPS

Russell Deppe  
Waste Enforcement Manager  
Virginia Department of Environmental Quality  
629 East Main Street  
Richmond, VA 23219

JAN 13 2014

**RE: RCRA Administrative Penalty Order**  
**Pre Con, Inc.**  
**Petersburg, VA 23803**  
**EPA ID No. VAD988207148**

Dear Mr. Deppe:

The U.S. Environmental Protection Agency Region III is pursuing the issuance of an Administrative Penalty Order (APO) to Pre Con, Inc. in Petersburg, Virginia pursuant to the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984. The APO will address violations of RCRA Subtitle C.

I appreciate your cooperation in this matter and look forward to your continued efforts toward a successful enforcement program. Should you have any questions regarding this matter, please contact me at (215) 814-5430 or Stephen Forostiak at (215) 814-2136.

Sincerely,

A handwritten signature in cursive script, reading "Carol Amend", is positioned above the typed name.

Carol Amend, Associate Director  
Land and Chemicals Division  
Office of Land Enforcement

cc: S. Forostiak, 3LC70 ✓



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1350 Arch Street  
Philadelphia, Pennsylvania 19103-2029

VIA UPS

Russell Deppe  
Waste Enforcement Manager  
Virginia Department of Environmental Quality  
629 East Main Street  
Richmond, VA 23219

**RE: RCRA Administrative Penalty Order**  
**Pre Con, Inc.**  
**Petersburg, VA 23803**  
**EPA ID No. VAD988207148**

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Sincerely,

Carol Amend, Associate Director  
Land and Chemicals Division  
Office of Land Enforcement

cc: S. Forostiak, 3LC70

CONCURRENCES								
SYMBOL	3LC70							
SURNAME	S. Forostiak							
DATE	1-9-14							

EPA Form 1320-1 (12-70) OFFICIAL FILE COPY

## ADMINISTRATIVE PENALTY CASE DATA FORM

(Revised 04/29/13)

ENFORCEMENT ACTION NAME: Pre Con, Inc.

(Primary Respondent's Name)

REGIONAL HEARING CLERK'S DOCKET NUMBER: RCRA-03-2014-0065REGIONAL TECHNICAL CONTACT: Stephen ForostiakREGIONAL ATTORNEY: Natalie Katz

Phone: 4-2136

Mail Code: 3LC70

Phone: 4-2615

Mail Code: 3RC30

DEFENDANT(s): Pre Con, Inc.

DEFENDANT(s): \_\_\_\_\_

DEFENDANT SMALL BUSINESS (<100 employees)? Yes or No

FACILITY NAME (if different than Enforcement Action Name): \_\_\_\_\_

Street: 220 South Perry Street City: Petersburg State: VA Zip Code: 23803

FACILITY ADDRESS (Pls. use the location of the facility where the violation(s) occurred, not a P.O. Box Number)

PRIMARY 6-DIGIT NAIC Code(s): 31332 Latitude: 37.223515 Longitude: -77.408271HORIZONTAL COLLECTION METHOD: EPA LRT REFERENCE POINT: centerFACILITY 4-DIGIT SIC Code(s) \_\_\_\_\_ SMALL BUSINESS? YES OR NOFEDERAL FACILITY? YES OR NO if YES, ✓ OPTION(s):☐ FEDERAL FACILITY ACTIVITY ☒ NO FEDERAL FACILITY INVOLVEMENT☐ NON-FEDERAL PARTY IMPACTING FEDERAL PROPERTY

FEDERAL FACILITY ACTIVITY COMMENT: \_\_\_\_\_

ENFORCEMENT ACTION TYPE (section of statute that authorizes pursuit of penalty and/ or injunctive relief) (see link below)

RCRA3008a; \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_[http://intranet.epa.gov/r3intran/oecej/Enf\\_Type.pdf](http://intranet.epa.gov/r3intran/oecej/Enf_Type.pdf)

LAW(s), Section(s) and Subsection(s) violated (see link below): \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_

[http://intranet.epa.gov/r3intran/oecej/Law\\_Section.pdf](http://intranet.epa.gov/r3intran/oecej/Law_Section.pdf)

DATE OF \*COMPLAINT/\*\*FFA (FILED/SIGNED): \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

(\*Clocked in with Regional Hearing Clerk) (\*\*- Division Director's signature)

CASH CIVIL PENALTY AMOUNT SOUGHT: \$ 101,375 (Penalty in Complaint or 1 day maximum statutory amount for a Notice Pleading Case)(Is this an amended complaint?) Yes or NoNotice Pleading Case? Yes or No

Multi-Media Action? Yes or No, if yes, ✓ all that apply(s):

C.A.A. Air Stationary Source (other than Title IV)

CFR Violation Citation(s): see CDS 40 CFR \_\_\_\_\_ 40 CFR \_\_\_\_\_ 40 CFR \_\_\_\_\_

OECA NATIONAL PRIORITY ACTIVITY? (Yes or No), if Yes, ✓ option(s) below:

- |   |   |
|---|---|
| <input type="checkbox"/> Air Toxics – Excess Emissions                            | <input type="checkbox"/> NSR/PSD – Nitric Acid Plants         |
| <input type="checkbox"/> Air Toxics – Flares                                      | <input type="checkbox"/> NSR/PSD – Sulfuric Acid Plants       |
| <input type="checkbox"/> Air Toxics – LDAR  | <input type="checkbox"/> WW – CAFO                            |
| <input type="checkbox"/> Energy Extraction-Land Based Gas Extraction & Production | <input type="checkbox"/> WW – CAFO Initiatives Areas          |
| <input type="checkbox"/> Mineral Processing – Mining - Other                      | <input type="checkbox"/> WW – Combined Sewer Overflows (CSOs) |
| <input type="checkbox"/> Mineral Processing – Non-Phosphoric Acid                 | <input type="checkbox"/> WW – CSOs < 50K serv. pop'n.         |
| <input type="checkbox"/> Mineral Process – Phosphoric Acid                        | <input type="checkbox"/> WW – CSOs ≥ 50K serv. pop'n.         |
| <input type="checkbox"/> NSR/PSD - Cement   | <input type="checkbox"/> WW – Sanitary Sewer Overflows (SSOs) |
| <input type="checkbox"/> NSR/PSD – Coal-Fired Power Plants                        | <input type="checkbox"/> WW – MS4s – Phase I                  |
| <input type="checkbox"/> NSR/PSD – Glass Manufacturing                            | <input type="checkbox"/> WW – MS4s Phase II                   |

REGIONAL PRIORITY? (Yes or No), if Yes, ✓ option(s) below:

- |   |  |
|---|--|
| <input type="checkbox"/> Chesapeake Bay Air Shed                        | <input type="checkbox"/> Huntington Tri State Initiative |
| <input type="checkbox"/> Chesapeake Bay Watershed                       | <input type="checkbox"/> Indoor Pollutants               |
| <input type="checkbox"/> Elizabeth River Initiative, Virginia           | <input type="checkbox"/> Integrated Strategies           |
| <input type="checkbox"/> Federal Facilities in Chesapeake Bay Watershed | <input type="checkbox"/> RCRA I District of Columbia     |
| <input type="checkbox"/> Fumigation (CAA)                               | <input type="checkbox"/> SDWA MCL Exceedance             |
| <input type="checkbox"/> Healthy Waters                                 |  |

OECA CORE PROGRAM? (Yes) or No

### CASE SUMMARY

DO NOT INCLUDE ENFORCEMENT CONFIDENTIAL, POTENTIALLY FOIA-EXEMPT INFORMATION. (A summary of the violation(s), environmental problem(s), and a description of the cause(s) of action/basis of legal action). All information in this section will eventually be made available to the public.

Settling violations of RCRA Subtitle C that EPA inspectors observed during an inspection of the company's facility in: Petersburg, Virginia. During the inspections, and through a subsequent information request, EPA Inspectors observed that the Facility: (1) operated a hazardous waste storage facility without a permit or interim status, (2) failure to determine whether equipment contains or contacts a hazardous waste with 10% or more organic concentration, (3) failure to monitor monthly valves in gas/vapor service or in light liquid service, (4) failure to mark each piece of equipment, (5) failure to record each piece of equipment in the facility operating record, (6) failure to make a waste determination, (7) failure to perform weekly inspections of hazardous waste storage areas, (8) failure to have required content in the facility contingency plan. The Consent Agreement and Final Order initiates and concludes this action. The Company has agreed to pay a penalty of \$101,375.00.

Matter involving claims by other Regions? Yes or No

A. CASE AND FACILITY BACKGROUND

1. Regional Hearing Clerk Docket Number RCRA-03-2014-0065

2. Respondent(s) or Defendant(s) (Enforcement Action) Name Pre Con, Inc.

3. Facility Name(s) Pre Con, Inc.

4. Facility Address: (No P.O. Box) Street: 220 South Perry Street and 321 Brown Street City: Petersburg County: Dinwiddie St: VA Zip 23803

(a) Latitude: 37.223515 Longitude: -77.408271 Small Business? Circle one: Yes/ No

(b) Horizontal Collection Method: EPALRT Reference Point: Center  
Primary 6-Digit NAIC Code(s): 31332

(c) Federal Facility? Circle one: Yes/ No If Yes, √ option(s) below:

( ) Federal Facility Activity ( ) No Federal Facility Involvement ( ) Non-Federal Party Impacting Federal Property

(d) Federal Facility Activity Comment: \_\_\_\_\_

5. Is this an amendment? Circle one: Yes/ No

6. (a) EPA Lead Attorney Natalie Katz (3RC30) (b) EPA Technical Contact Stephen Forostiak (3LC70)

7. Enforcement Action Type - Section of statute that authorizes pursuit of penalty and/or injunctive relief (check those that apply):

X RCRA 3008A (AO for Compliance and/or Penalty - Hazardous Waste) RCRA 7003 (AO for Imminent Hazard)  
RCRA 3008H (AO for Corrective Action) RCRA 9006 (AO for Compliance and/or Penalty - UST)  
RCRA 3013 (AO for Compliance) RCRA 9006 (Expedited Settlement AO for Penalty - UST)

8. Law(s), Section(s) and Subsection(s) violated (check those that apply):

X RCRA 3002 (HW Standards for Generators) RCRA 3013 (Monitoring, Analysis, Testing)  
RCRA 3003 (HW Standards for Transporters) RCRA 3014 (Restrictions on Recycled Oil)  
RCRA 3004 (HW Standard for Treatment/Storage/Disposal) RCRA 3017 (Export of Hazardous Waste)  
RCRA 3004VU (TSD Corrective Action) RCRA 7003 (Imminent and Substantial Endangerment)  
RCRA 3007 (HW Information Gathering) RCRA 9002 (UST Notice Requirements)  
RCRA 3008C (Violation of Compliance Order) RCRA 9003 (UST Release Detection, Prevention, Correction Regulations)  
RCRA 3008H (Interim Status Corrective Action Order) RCRA 9005 (UST Information Gathering)

9. Settlement Action Type and Date (check those that apply):

(a) 40 CFR Part 22 settlement:

Type of Action:

i. CAFO \_\_\_\_\_ (date clocked in with Regional Hearing Clerk)  
ii. X SuperCAFO (under 40 CFR Sec. 22.13(b) authority) 3/20/14 (date clocked in with Regional Hearing Clerk)  
iii. Final Order (under Quick Resolution, 40 CFR 22.18(a)(3)) \_\_\_\_\_ (date clocked in with Regional Hearing Clerk)  
iv. Expedited Settlement Agreement (use for Field Citations) \_\_\_\_\_ (date clocked in with Regional Hearing Clerk)  
(b) Administrative Orders or Administrative Compliance Orders \_\_\_\_\_ (date signed by DD or RA)  
(c) Consent Decree or Court Order Resolving a Civil Judicial Action - Lodged \_\_\_\_\_ (date lodged by the Court)  
(d) Consent Decree or Court Order Resolving a Civil Judicial Action - Entered \_\_\_\_\_ (date filed/entered by the Court)  
(e) Judicial Order Amending or Enforcing Consent Decree \_\_\_\_\_ (date filed/entered by the Court)  
(f) Non-Lead Participant in Multi-Regional Case \_\_\_\_\_ (date filed/entered by the Court or RJO)

10. List names of all Respondent(s)/Defendant(s). List the names, if different, of the facilities where the violation(s) occurred. Indicate which are a Small

Business (<100 employees) by placing an "SB" designation after the name. Attach additional sheets as necessary.

Pre Con, Inc. 220 South Perry Street and 321 Brown Street, Petersburg, VA 23803

11. THIS SECTION NOT BEING UTILIZED.

NOTE: ONLY COMPLETE THIS SECTION IF YOUR CASE WAS INITIATED OR CONCLUDED PRIOR TO FY 2012.

12. Was the Agency activity taken in response to Environmental Justice concerns? (Yes or No), if yes, ✓ option(s) below:

\_\_\_ Low Income

\_\_\_ Minority Population & Low Income  
Minority Population \_\_\_ Other

NOTE: ONLY COMPLETE THIS SECTION IF YOUR CASE WAS INITIATED BEGINNING IN FY 2012.

IMPORTANT: NOTICE OF DETERMINATIONS (NODs) ARE EXEMPT FROM AN EJ ASSESSMENT.

13. Has Environmental Justice analysis already been conducted for this activity? (Yes or No),

If Yes, is the Activity an EJ area of concern? (Yes or No)

Select which indicators were incorporated into the EJ Assessment determination:

\_\_\_ Community Self-ID

\_\_\_ EJ Screening Score \_\_\_ Low  
Income \_\_\_ Minority

\_\_\_ Other Fed. Gov. Knowledge  
(e.g., inspector observation)

\_\_\_ Public Input \_\_\_ Recognized  
Tribe \_\_\_ State/Local Gov. Knowledge

\_\_\_ Tribal Population

\_\_\_ Other

a. EJ Seat Score: \_\_\_

b. Basis of EJ Determination:

If EJ Assessment has not been conducted, OECEJ can provide this information for you. Please contact Matthew Lee at 4-2917.

14. Was Alternative Dispute Resolution used in this action? Circle one: Yes (No)

B. OECA CORE PROGRAM Circle one: Yes (No) If "No", one of the priorities below in blocks C or D must be "Yes"

C. NATIONAL ENFORCEMENT PRIORITY Circle one: Yes (No) If Yes, check option(s) below:

\_\_\_ Mineral Processing - Mining \_\_\_ Mineral Processing - Phosphoric Acid  
\_\_\_ Mineral Processing - Non-Phosphoric Acid \_\_\_ Energy Extraction (land-based gas extraction and production)

D. REGIONAL PRIORITY Circle one: Yes (No) If Yes, check option(s) below:

\_\_\_ RCRA I District of Columbia \_\_\_ Healthy Waters \_\_\_ Chesapeake Bay Watershed  
\_\_\_ Chesapeake Bay Air Shed \_\_\_ Hatteras In-Situ Initiative \_\_\_ SARA MCL Exceedances  
\_\_\_ Federal Facilities in Chesapeake Bay watershed \_\_\_ Indoor Pollution \_\_\_ Integrated Strategies  
\_\_\_ Resource Conservation Challenge \_\_\_ Elizabeth River Initiative, Virginia

E. VIOLATION TYPE(s): RCRA 3008(a) (Additional violations on back or blank sheet)

F. POLLUTANT(s): solid wastes and hazardous wastes (Additional pollutants on back or blank sheet)

G. RELIEF SOUGHT: (check those that apply): X Penalty \_\_\_ Injunctive

H. CFR CITATION(s):

MD CODE WHICH INCORPORATES

CFR Violation Citation(s):	40 CFR <u>264.1057(a)</u>	40 CFR <u>264.174</u>	40 CFR _____
40 CFR <u>264.1050(d)</u>	40 CFR <u>264.1063(d)</u>	40 CFR <u>262.11</u>	40 CFR _____
40 CFR <u>264.1052(c),(e),(f)</u>	40 CFR <u>264.1064(b)</u>	40 CFR <u>264.1084(b)</u>	40 CFR _____

**I. CASE SUMMARY:**

1. Case Summary (A summary of the violation(s), environmental problem(s), and a description of the cause(s) of action/basis of legal action)

Settling violations of RCRA Subtitle C that EPA inspectors observed during an inspection of the company's facility in: Petersburg, Virginia. During the inspections, and through a subsequent information request, EPA Inspectors observed that the Facility: (1) operated a hazardous waste storage facility without a permit or interim status, (2) failure to determine whether equipment contains or contacts a hazardous waste with 10% or more organic concentration, (3) failure to monitor monthly valves in gas/vapor service or in light liquid service, (4) failure to mark each piece of equipment, (5) failure to record each piece of equipment in the facility operating record, (6) failure to make a waste determination, (7) failure to perform weekly inspections of hazardous waste storage areas, (8) failure to have required content in the facility contingency plan. The Consent Agreement and Final Order initiates and concludes this action. The Company has agreed to pay a penalty of \$101,375.00.

**J. PENALTY** (if there is no penalty, enter 0)15. Total Penalty Required \$ 101,375

16. EPA Share (if shared) \$ \_\_\_\_\_

Another federal agency as co-plaintiff? Circle one: Yes / No Amount: \$ \_\_\_\_\_

17. State or local Share (if shared) \$ \_\_\_\_\_

Total Federal Penalty \$ \_\_\_\_\_

18. THIS SECTION NOT BEING UTILIZED

K. 19. THIS SECTION NOT BEING UTILIZED

**L. INJUNCTIVE RELIEF/COMPLIANCE ACTIONS (Non-SEP)**

20. What action did Respondent/Defendant take prior to receipt of settlement/order or will take to return to compliance or meet addl. requirements (other than what has already been reported on the Inspection Conclusion Data Sheet (ICDS). The Region can take credit for pollutant reductions which **result** from the Agency's enforcement even though the action being reported on this form does not specifically require such reductions. Where separate penalty and/or compliance orders are issued regarding same violation(s), report the following information for only one of those orders. Select response(s) from the following:

**Removal and Restoration** - Applies to cases in which a pollution release has already occurred and will require treatment/restoration, removal and/or mitigation as part of clean-up efforts.

(Check all that apply)	Pollutant	Quantitative Environmental Impact Amount	Unit	Impacted Media
<input type="checkbox"/> In-situ Treatment	<input type="checkbox"/> Haz Waste	_____	<input type="checkbox"/> Yards <sup>3</sup>	<input type="checkbox"/> Land
<input type="checkbox"/> Ex-situ Treatment	<input type="checkbox"/> Gasoline	_____	<input type="checkbox"/> Pounds	<input type="checkbox"/> Soil
<input type="checkbox"/> Removal of Contaminated Media	<input type="checkbox"/> Used Oil	_____		
<input type="checkbox"/> Removal of Released Pollutants	<input type="checkbox"/> Contam. Soil	_____		

**Reduction of On-going Releases** - Applies to cases that produce environmental benefits from a complying action that reduces or eliminates an on-going discharge, emission, or release of pollutants to the environment.

(Check all that apply)	Pollutant	Quantitative Environmental Impact Annual Amount	Unit	Impacted Media
<input type="checkbox"/> HW Use Reduction	<input type="checkbox"/> Haz Waste	_____	<input type="checkbox"/> Yards <sup>3</sup>	<input type="checkbox"/> Land
<input type="checkbox"/> Use Reduction (non-HW)	<input type="checkbox"/> Gasoline	_____	<input type="checkbox"/> Pounds	<input type="checkbox"/> Soil
<input type="checkbox"/> HW Treatment	<input type="checkbox"/> Used Oil	_____	<input type="checkbox"/> Gallons	
<input type="checkbox"/> Treatment (non-HW)	Other: _____	_____		
<input type="checkbox"/> HW Disposal Change	_____	_____		
<input type="checkbox"/> Disposal Change (non-HW)	_____	_____		
<input type="checkbox"/> HW Storage Change	_____	_____		
<input type="checkbox"/> Storage Change (non-HW)	_____	_____		
<input type="checkbox"/> HW Waste Containment	_____	_____		
<input type="checkbox"/> Waste Containment (non-HW)	_____	_____		
<input type="checkbox"/> UST Tank Repair	_____	_____		
<input type="checkbox"/> UST Tank Removal	_____	_____		
<input type="checkbox"/> UST Tank Storage Change	_____	_____		

**Prevention of Future Releases** - Applies to cases that produce environmental benefits from a complying action that prevents release of pollutants to the environment.

(Check all that apply)	Pollutant	Quantitative Environmental Impact Annual Amount	Unit	Impacted Media
<input type="checkbox"/> Proper Waste Treatment	<input checked="" type="checkbox"/> Haz Waste	_____	<input type="checkbox"/> Yards <sup>3</sup>	<input checked="" type="checkbox"/> Land
<input checked="" type="checkbox"/> Proper Waste Storage	<input type="checkbox"/> Gasoline	_____	<input type="checkbox"/> Pounds	<input type="checkbox"/> Soil
<input type="checkbox"/> Proper Waste Containment	<input type="checkbox"/> Used Oil	<u>1,980</u>	<input checked="" type="checkbox"/> Gallons	
<input type="checkbox"/> Proper Waste Disposal	Other: _____	_____		
<input type="checkbox"/> Proper Waste Export	_____	_____		
<input type="checkbox"/> UST Secondary Containment	_____	_____		
<input type="checkbox"/> UST Implementation of CP	_____	_____		

☐ UST Implementation of Spill-overfill  
☐ UST Implementation of ED  
☐ UST Tank Closure

Work Practices (check all that apply)

☒ Training      ☒ Labeling-Identification      ☒ Work Practices      ☒ Record Keeping  
 Testing/Sampling      Reporting      Monitoring      Information Letter Response  
 Notification      Financial Responsibility Requirements      Institutional Controls  
 ICW Identification      Monitoring

(No Quantitative Environmental Impact required for this section.)

Total Cost of Compliance Action: \$ 5,000 (REQUIRED)

**M. SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP) INFORMATION** Circle one: Yes / No If Yes, check option(s) below:

20. Categories of SEP(s) (Check all appropriate categories)

Cost (Project Model calculation cost is preferred)

- ☐ (a) Public Health
- ☐ (b) Pollution Prevention (Complete Q. 23)
  - ☐ (1) equipment/technology modifications
  - ☐ (2) process/procedure modification
  - ☐ (3) product reformulation/redesign
  - ☐ (4) raw materials substitution
  - ☐ (5) improved housekeeping/O&M/training/inventory-control
  - ☐ (6) in-process recycling
  - ☐ (7) energy efficiency/conservation
- ☐ (c) Pollution Reduction (Complete Q. 23)
- ☐ (d) Environmental Restoration and Protection
- ☐ (e) Assessments and Audits
- ☐ (f) Environmental Compliance Promotion
- ☐ (g) Emergency Planning and Preparedness
- ☐ (h) Other Program SEP category (specify) \_\_\_\_\_

21. SEP description \_\_\_\_\_

22. Is Environmental Justice addressed by impact of SEP? Circle one: Yes / No

23. SEP Quantitative environmental pollution and/or chemicals and/or waste streams, amount of reduction/elimination (e.g., reduction in discharges). Please circle the applicable media and units.

Pollutant/Chemical/Waste Stream	Amount/Amount	Units	Environmentally Impacted Media
Pounds	Land	Pounds/year	Ground water
		Gallons/year	Surface water
		People	Wetlands
		Acres	Wastewater to POTW
		Linear feet (small stream)	Air
		Linear feet (medium stream)	Aquifers/Plants/Vegetation
		Linear feet (large stream)	Buildings/Structures/Utilities

N. SELF-DISCLOSURE (SECTION NOT BEING UTILIZED; PLEASE USE THE CENTRAL CLINICAL FORM)

SYMBOL	3LC70	3RC30	3LC70	3RC00	3LC00	3LC00	3LC00	
SURNAME	Fordetia	Katz	Amend	Stoe	Daw	Armstead		
DATE	3/13/2014		3/13/14	18/E2B				



**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

This form was originated by: Natalie Katz 3/20/14  
*Name of Contact person* *Date*

in the ORC at 215.814.2615  
*Office* *Phone number*

☐ Non-SF Jud. Order/Consent Decree. DOJ COLLECTS ☐ \* Administrative Order/  
Consent Agreement  
FMD COLLECTS PAYMENT

☐ SF Jud. Order/Consent Decree. FMD COLLECTS

☐ This is an original debt ☐ This is a modification

Name of Company making payment: Pre Con, Inc.

The Total Dollar Amount of Receivable: \$101,375  
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2014-0065

The Site-Specific Superfund Acct. Number \_\_\_\_\_

The Designated Regional/HQ Program Office \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
*Name of Contact* *Date*

in the Financial Management Office, phone number: \_\_\_\_\_

**JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:**

- |                                   |                              |
|-----------------------------------|------------------------------|
| 1. Rosemarie Pacheco              | 2. Originating Office (ORC)  |
| Environmental Enforcement Section | 3. Designated Program Office |
| Lands Division, Room 130044       |                              |
| 1425 New York Avenue, N.W.        |                              |
| Washington, D.C. 20005            |                              |


**ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:**

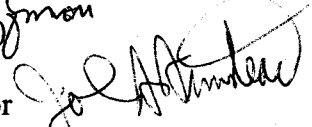
- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 2. Designated Program Office |
| 3. Regional Hearing Clerk |                              |

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

MEMORANDUM

SUBJECT: Pre Con, Inc.  
Consent Agreement and Final Order  
Docket No.: RCRA-03-2014-0065

FROM: Marcia E. Mulkey   
Regional Counsel (3RC00)

John A. Armstead, Director   
Land and Chemicals Division (3LC00)

3/14/14

TO: Renée Sarajian  
Regional Judicial Officer (3RC00)

The attached Consent Agreement has been negotiated with Pre Con, Inc. (hereinafter "Respondent") in initiation and settlement of EPA's civil claims against the Respondent based upon Respondent's violations of Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6928(a), and the federally-authorized Virginia Hazardous Waste Management Regulations ("VaHWMR"). The authorized VaHWMR are currently codified at 9 VAC 20-60, *et seq.* The VaHWMR that were effective at the time of the violations in this matter were those authorized in 2008.

These alleged violations occurred at Respondent's research facility for developmental production of ballistic resistant materials. The facility is located at 220 South Perry Street and 321 Brown Street, Petersburg, VA 23803 (the "Facility").

In settlement of EPA's claims for civil monetary penalties associated with the violations alleged in the attached Consent Agreement, the parties have negotiated a settlement in which Respondent will pay a civil penalty of ONE HUNDRED ONE THOUSAND THREE HUNDRED SEVENTY FIVE DOLLARS (\$101,375.00). The settlement amount is an appropriate penalty for the identified violations based upon consideration of the statutory penalty factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violations and any good faith efforts by the Respondent to comply with the applicable requirements.

For the reasons set forth above, we recommend that you sign the attached Final Order ratifying the Consent Agreement assessing the negotiated civil penalty of \$101,375.00 against Respondent. Upon execution of the Final Order, please return the enclosed documents to Natalie Katz of the Office of Regional Counsel, for further processing.

cc: John M. Carter, Esq., Counsel, for Pre Con, Inc. and The Wauford Group

Attachment

**Region III Enters Consent Agreement and Final Order with Pre Con, Inc., in which Company Will Pay \$101,375 to Settle Penalty Action for RCRA Subtitle C Violations for at Petersburg, VA Research Facility. [Docket No. RCRA-03-2014-0065]**

On March 20, 2014, Region III entered into a Consent Agreement with, and issued a Final Order to Pre Con, Inc., settling violations of RCRA Subtitle C that EPA inspectors observed during an inspections of the company's research facility for developmental production of ballistic-resistant materials located in Petersburg, Virginia. During the inspection, and through subsequent communications, the EPA Inspector observed that the Facility: (1) operated a hazardous waste storage facility without a permit or interim status, (2) failed to determine whether equipment contains or contacts a hazardous waste with 10% or more organic concentration, (3) failed to monitor monthly valves in gas/vapor service or in light liquid service, (4) failed to mark each piece of equipment, (5) failed to record each piece of equipment in the facility operating record, (6) failed to make a waste determination for a drum of discarded aerosol cans, (7) failed to perform weekly inspections of hazardous waste storage areas, and (8) failed to have required content in the facility's contingency plan. The Company has agreed to pay a penalty of \$101,375.00 to settle the enforcement action.

Primary Contact: Natalie Katz (215) 814-2615

Additional Contact: Stephen Forostiak (215) 814-2136